UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHANIE KEITH, Plaintiff, - against - CPX INTERACTIVE LLC, Defendant.	Docket No. 17-cv-02346 JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Stephanie Keith ("Keith" or "Plaintiff"), by and through her undersigned counsel, as and for her Complaint against Defendant CPX Interactive LLC ("CPXi" or "Defendant") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant's unauthorized reproduction and public display of a copyrighted photograph of a couple getting married on the N train in Brooklyn, owned and registered by Keith, a New York City-based photojournalist. Accordingly, Keith seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq*., and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Keith is a professional photojournalist in the business of licensing her photographs to online, print, and television media outlets for a fee, having a usual place of business at 42 Madison Street, Brooklyn, New York 11238. Keith's photographs have appeared in many publications around the United States.

6. Upon information and belief, CPXi is a limited liability company duly organized and existing under the laws of the State of New York, with a place of business at 1441 Broadway, 18^{th} Floor, New York, New York 10018. Upon information and belief, CPXi is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, CPXi has owned and operated a website at the following URL: www.thefrisky.com (the "Website").

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

7. On November 28, 2014, Keith photographed a couple getting married on the N train as it crossed the Manhattan Bridge from Brooklyn (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Keith then licensed the Photograph to the New York Daily News (the "Daily News"). On November 28, 2014, the Daily News ran an article that featured the Photograph on its web edition entitled, *Couple gets married on the N train*. See http://www.nydailynews.com/new-york/couple-married-n-train-article-1.2027347. Keith's name was featured in a gutter credit identifying her as the photographer of the Photograph. A true and correct copy of the Photograph in the article is attached hereto as Exhibit B.

9. Keith is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-023-356.

B. Defendant's Infringing Activities

11. Upon information and belief, on or about December 1, 2014, CPXi ran an article on the Website entitled *Couple Marries On New York City Subway*. See http://www.thefrisky.com/2014-12-01/couple-marries-on-new-york-city-subway/. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit C.

12. CPXi did not license the Photograph from Plaintiff for its article, nor did CPXi have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST CPXi)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. CPXi infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Website. CPXi is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the aforementioned acts of infringement by CPXi have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

17. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

18. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant CPXi be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. That Plaintiff be awarded her actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded pre-judgment interest; and

5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: March 31, 2017
Valley Stream, New York

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